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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,058	06/14/2001	Alexander Paritsky	082852-000000US	1698

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EXAMINER

HENN, TIMOTHY J

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 08/12/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,058

Applicant(s)

PARITSKY ET AL.

Examiner

Timothy J Henn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 2 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Japan on October 15, 199. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

Drawings

2. The drawings are objected to: please label the main blocks of Figure 1 in a manner such as in Figure 5 to make Figure 1 easier to read. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Figure 8 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. The office notes that the specification contains numerous grammatical errors throughout which require revision.

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1 and 2 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No.

6,459,798 in view of Dann et al. (US 4,862,278).

[claim 1]

In regard to claim 1, note that USP 6,459,798 claims a sound collector collecting sound by changing directivities of a microphone according to an environment in which a sound collection object is located; wherein the above microphone is an optical microphone that comprises: a diaphragm to vibrate by sound pressure; an illuminant or "light source" to irradiate an optical beam to the above diaphragm; a photodetector which receives a reflection light of the light beam irradiated in the diaphragm and which outputs a signal which copes with the oscillation of the diaphragm; an illuminant or "light source" drive circuit to drive the illuminant to supply predetermined electric current ; and a negative feedback circuit that supplies the signal outputted by the photodetector to the illuminant or "light source" drive circuit as a negative feedback signal; and wherein the gain or "volume" of the negative feedback circuit is changed corresponding to the

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environment. Therefore, it can be seen that USP 6,459,798 does not claim a video camera include the claimed microphone, wherein the negative feedback circuit gain or "volume" is changed corresponding to a zooming signal which shows the amount of zooming of the video camera.

Dann et al. discloses a video camera (Figure 1) which changes the directivity of a microphone in accordance with the zoom position of the camera to "provide dramatic changes in the focus of the sound corresponding to the dramatic changes in optical focus of the zoom lens" (c. 2, ll. 3-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the microphone of USP 6,459,798 in a video camera and to control the directivity of the microphone based on the position of the zoom lens or "the environment of the video camera" as taught by Dann et al. to synchronize the optical focus position with the audio focus position.

[claim 2]

In regard to claim 2, note that the zoom lens is a varifocal (i.e. adjustable to many positions) zoom lens (e.g. Figure 1; c. 2, ll. 17-30).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art further shows the current state of the art in optical microphones:

- | | | |
|-----|-----------------|-----------------|
| i. | Partisky et al. | US 2002/0114477 |
| ii. | Bernard | US 3,622,791 |

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- iii. Kobayashi et al. JP 2001-119783 A
- iv. Karatzas et al. Reduction of
semiconductor laser noise, as applied to an optical microphone, using
negative feedback. Proceedings of the 6th IOP Conference on Sensors
and Their Applicants, Manchester, UK, 12-15 Sept. 1993, pp.233-238

The following prior art further shows the current state of the art in directional
microphones controlled by a video camera zoom lens position:

- i. Fujimura et al. US 4,984,087
- ii. Matsumoto et al. Stereo zoom Microphone
for consumer video cameras. Matsumoto, M.; Consumer Electronics,
IEEE Transactions on , Volume: 35 , Issue: 4 , Nov. 1989 Pages: 759 -
766

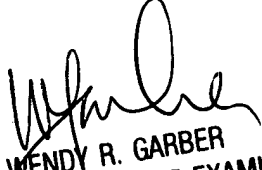
9. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Timothy J Henn whose telephone number is (703) 305-
8327. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, alternate
Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Wendy R Garber can be reached on (703) 305-4929. The fax phone
number for the organization where this application or proceeding is assigned is 703-
872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJH
8/3/2004


WENDY R. GARBER
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